

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

JOHN D. COLEMAN, et al.)
)
)
) Case No. 6:18-cv-3232
Plaintiffs,)
)
v.)
)
RIPLEY ENTERTAINMENT, INC.)
d/b/a RIDE THE DUCKS, et al.,)
)
Defendants.)

DEFENDANT RIPLEY ENTERTAINMENT INC.'S
MOTION TO DISMISS AND STRIKE

NOW COMES, Ripley Entertainment, Inc. (“Ripley”), by and through its undersigned counsel, and pursuant to Rules 12(b)(1), 17, 12(b)(6), 10(b), and 12(f), of Federal Rules of Civil Procedure, files its Motion to Dismiss and Strike¹.

As more fully set forth below, Counts I, IV, V, VI, VII, VIII, and IX of the Complaint must be dismissed and or stricken because Plaintiffs cannot maintain any claims other than wrongful death claims, they lack standing for trying to bring claims on behalf of the same decedent, Plaintiffs improperly infer duties from internal policies and procedures, the highly vilifying language must be stricken, punitive damages cannot be sought, Plaintiffs have failed to separate counts, Plaintiffs cannot maintain duplicative wrongful death actions for the deaths of one decedent, the Complaint fails to state a cause of action for negligent infliction of emotional distress, and the Complaint does not meet the requirements for a claim under the Missouri Merchandising Practices Act.

¹ By filing this motion, defendants do not waive and do not intend to waive any rights under the Limitation of Liability Act, 46 U.S.C. §§ 30501-30512. Defendants reserve all rights thereunder.

WHEREFORE, Defendant respectfully requests that this Court grant the relief included in the instant motion and for any such Court deems just and reasonable.

Respectfully submitted, this 12 day of October, 2018.

/s/ Terrance J. Good

Terrance J. Good #25336MO
Alexandra C. Wells #67316MO
LASHLY & BAER, P.C.
714 Locust Street
St. Louis, Missouri 63101
(314) 621-2939
(314) 621-6844/Fax
tjgood@lashlybaer.com
awells@lashlybaer.com

And

John W. Patton, Jr., IL Bar #6186472IL
Paul D. Motz, IL Bar #6294483IL
Benjamin J. Levinsky, IL Bar #6306433IL
Kelly L. Ferron, IL Bar #6318532IL
Roman Solowski, IL Bar #6307052IL
PATTON & RYAN, LLC
330 N. Wabash Ave., Ste. 3800
Chicago, IL 60611
Telephone: (312) 261-5160
Facsimile: (312) 261-5161
jpatton@pattonryan.com
pmotz@pattonryan.com
blevinsky@pattonryan.com
kferron@pattonryan.com
rslowski@pattonryan.com

Attorneys for Defendant Ripley Entertainment, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was filed and served via the Court's electronic filing system this 12 day of October, 2018.

Nuru Witherspoon
Missouri Bar Number 66812
Ernesto D. Sigmon (*Pro Hac Vice* Applicant)
Texas Bar No. 24010397
The Witherspoon Law Group
1717 McKinney Ave., Suite 700
Dallas, Texas 75202
witherspoon@twlglawyers.com
sigmon@twlglawyers.com

Attorneys for Plaintiffs

Anna Idelevich
Weinberg, Wheeler, Hudgins, Gunn & Dial,
LLC
3344 Peachtree Road, NE
Suite 2400
Atlanta, GA 30326
aidelevich@wwhgd.com
ddial@wwhgd.com
rhill@wwhgd.com

*Attorneys for Defendant Herschend Family
Entertainment Corporation*

Kevin P. Krueger
Andrew D. Ryan
Lawrence S. Hall
Sandberg Phoenix & von Gontard P.C.
600 Washington Avenue - 15th Floor
St. Louis, MO 63101
kkrueger@sandbergphoenix.com
aryan@sandbergphoenix.com
lhall@sandbergphoenix.com

*Attorneys for Defendant Ride the Ducks
International, LLC*

Timothy A. Garrison
United States Attorney
Randall D. Eggert
Assistant United States Attorney
Casey Clark
Assistant United States Attorney
901 St. Louis Street, Suite 500
Springfield, MO 65806-2511
randy.eggert@usdoj.gov
casey.clark@usdoj.gov

Intervening Attorneys